

**STATE OF OKLAHOMA'S RESPONSE IN OPPOSITION TO
PETERSON FARMS, INC.'S MOTION IN LIMINE
REGARDING FORMER EMPLOYEES (Dkt. #2395)**

EXHIBIT 2

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OKLAHOMA

3 THE CITY OF TULSA, THE)
4 TULSA METROPOLITAN)
5 UTILITY AUTHORITY,)

6 Plaintiffs,) No. 01 CV 0900B(X)

7 vs.) VIDEOTAPED
8) DEPOSITION OF

9 TYSON FOODS, INC.,)
10 COBB-VANTRESS, INC.,)
11 PETERSON FARMS, INC.,) RONALD J. MULLIKIN
12 SIMMONS FOODS, INC.,)
13 CARGILL, INC., GEORGE'S,)
14 INC., CITY OF DECATUR,)
15 ARKANSAS,)

16 Defendants.)
17 -----)

18 THE VIDEOTAPED DEPOSITION OF RONALD J.
19 MULLIKIN, taken before Karen J. Eichmann,
20 Certified Shorthand Reporter and Notary Public
21 of the State of Iowa, commencing at 12:02 p.m.,
22 on the 18th day of July, 2002, at 421 West
23 Broadway, Suite 405, Council Bluffs, Iowa.

24 EXHIBIT 5

25 Reported by: Karen J. Eichmann, C.S.R.

EXHIBIT

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1 that true?

2 MS. BARTLEY: Object to form.

3 A. And as you see there, I wasn't specific
4 about a watershed. I was -- that is a general
5 statement that I could make in the state of Iowa
6 if that base-phosphate level were legislated to
7 a certain point.

8 Q. Now you said earlier that the -- what
9 was commonly grown in the watershed that we're
10 concerned with here today, northwest Arkansas
11 and Oklahoma, was pasture lands rather than row
12 crops and things?

13 A. That's correct.

14 Q. And the agronomic needs of phosphorus
15 for pastureland is approximately what?

16 A. It is going to depend on the soil type,
17 but I can tell you substantially less.

18 Q. A range?

19 A. I would say that it would require --
20 and I don't know as I would say.

21 Q. It's certainly under 300?

22 A. Oh, absolutely, absolutely.

23 Q. And could be down in the 50 to 70
24 range?

25 A. Uh-huh, what it needed to sustain

1 growth.

2 Q. And then under opportunities it looks
3 like essentially, again, you are talking about
4 all these different techniques of alternate
5 source utilization of the litter, are you not?

6 A. Uh-huh.

7 Q. Cattle feed, bedding purpose,
8 pelletizing, fuel supply and so forth and so on?

9 A. Right.

10 Q. So you were beating that drum pretty
11 hard it looks like?

12 MS. BARTLEY: Object to form.

13 A. I believe then and still believe that
14 alternate use is still the best solution.

15 (Exhibit Number 17 was marked
16 for identification by the reporter.)

17 Q. Let me now show you Exhibit 17. Would
18 this be something that you would have also
19 prepared and kept in your computer possibly?

20 A. Uh-huh, possibly.

21 Q. Is this your writing at the bottom of
22 that first page?

23 A. Yes.

24 Q. Can you tell me what that refers to?
25 Somebody's name and phone number obviously.

1 the ground and existing phosphate levels. I
2 don't know as he was trying to replace them.
3 Maybe he was, but that certainly wasn't my
4 understanding.

5 Q. I guess in learning about these issues
6 you developed some understanding of the
7 historical practices of the companies and the
8 growers and things like that, did you not?

9 A. To some extent.

10 Q. Even before you were there. So to your
11 knowledge how long have growers in this area of
12 northeast Oklahoma, northwest Arkansas been land
13 applying chicken litter?

14 A. I can only speculate for as long as
15 they've been growing chickens.

16 Q. So it could be for decades?

17 A. Absolutely.

18 Q. And this business of growing chickens
19 in houses, when did that start to become
20 prevalent?

21 A. I couldn't tell you.

22 Q. Again, a long time ago?

23 A. I would assume so.

24 Q. When did the -- if you gained any
25 knowledge of this, when did any of the

1 integrator industry start gaining awareness of
2 the -- of there being a problem with excess
3 phosphorus in watersheds?

4 MS. BARTLEY: Object to the form.

5 A. It would seem to me that it became
6 something on their radar screen, so to speak, at
7 about the time I went to work for Peterson
8 Farms.

9 Q. That is what you observed with respect
10 to Peterson anyway?

11 A. Yes.

12 Q. Did you do any research to see if in
13 other parts of the country they had had reason
14 to have knowledge or concerns before that?

15 A. I talked to people on the Delmarva
16 Peninsula, talked to them; and they had a little
17 different set of circumstances because they are
18 extremely concentrated, have very different soil
19 types than what we have here. But I visited
20 with them, visited with some individuals in
21 eastern Texas as it related to some problems
22 that they were having in different watersheds
23 down there. And there were some folks in I
24 believe it was Alabama that I talked to about
25 how long they had been doing the various things

1 they had been doing.

2 And most of them had not been
3 doing land application as long as they had in
4 northwest Arkansas and northeast Oklahoma.

5 Q. And when did you learn that the
6 problems manifested themselves let's start with
7 Delmarva, approximately when?

8 A. I think their problems started to
9 really be recognizable two or three years
10 before we recognized a problem in northwest
11 Arkansas.

12 Q. So you are saying mid-'90s or even
13 before then?

14 A. I think mid-'90s.

15 Q. Mid-'90s?

16 A. Yeah.

17 Q. What about with respect to the Texas
18 issue?

19 A. I think Texas didn't come about until
20 maybe a little bit after or about the same time
21 that we did.

22 Q. How about Alabama?

23 A. I think Alabama it manifested itself
24 because they heard everyone else was having a
25 problem with it.